

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSEPH LOUIS, # 04R-2840,

Plaintiff,

-against-

SHERIFF EDWARD REILLY, SUPERINTENDENT
OF NASSAU COUNTY JAIL,

Defendant.

ORDER

10-CV-3469(SJF)(ARL)

FILED

IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y

★ SEP 28 2011 ★

FEUERSTEIN, District Judge:

LONG ISLAND OFFICE

Pending before the Court is the Report and Recommendation ("the Report") of Magistrate Judge Arlene R. Lindsay, dated May 31, 2011, recommending that plaintiff's motion to amend his complaint pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure be denied as moot and that plaintiff's amended complaint be *sua sponte* dismissed with prejudice. No objections to the Report have been filed. For the reasons stated herein, the Court accepts Magistrate Judge Lindsay's Report in its entirety and *sua sponte* dismisses the amended complaint with prejudice.

I. Standard of Review

Any portion of a report and recommendation on dispositive matters, to which a timely objection has been made, is reviewed *de novo*. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b). The court, however, is not required to review the factual findings or legal conclusions of the magistrate judge as to which no proper objections are interposed. See, Thomas v. Arn, 474 U.S. 140, 150, 106 S.Ct. 466, 88 L.Ed.2d 435 (1985). To accept the report and recommendation of a

magistrate judge to which no timely objection has been made, the district judge need only be satisfied that there is no clear error on the face of the record. See, Fed. R. Civ. P. 72(b); Spence v. Superintendent, Great Meadow Correctional Facility, 219 F.3d 162, 174 (2d Cir. 2000) (a court may review a report to which no timely objection has been interposed to determine whether the magistrate judge committed “plain error.”); Johnson v. Goord, 487 F.Supp.2d 377, 379 (S.D.N.Y. 2007), aff’d, 305 Fed. Appx. 815 (2d Cir. 2009). Whether or not proper objections have been filed, the district judge may, after review, accept, reject, or modify any of the magistrate judge’s findings or recommendations. 28 U.S.C. § 636(b)(1); Fed.R.Civ.P. 72(b).

II. Review of Report

No party has filed any objection to Magistrate Judge Lindsay’s Report. Upon review, the Court is satisfied that the Report is not facially erroneous. Accordingly, the Court accepts Magistrate Judge Lindsay’s Report as an Order of the Court.

III. Conclusion

For the reasons set forth therein, Magistrate Judge Lindsay’s Report is accepted in its entirety; plaintiff’s motion to amend the complaint pursuant to Rule 15(a)(2) of the Federal Rules of Civil Procedure is denied as moot and the amended complaint is *sua sponte* dismissed in its entirety with prejudice. The Clerk of the Court shall enter judgment in favor of defendant, close this case and serve notice of entry of this Order in accordance with Rule 77(d)(1) of the Federal Rules of Civil Procedure, including mailing a copy of the Order to the *pro se* plaintiff at his last known address, see Fed. R. Civ. P. 5(b)(2)(C).

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed.2d 21 (1962).

SO ORDERED.

Sandra J. Feuerstein

Sandra J. Feuerstein

Sandra J. Feuerstein
United States District Judge

Dated: September 28, 2011
Central Islip, New York